

PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number Q64933	
Mail Stop AF Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450	Application Number	Filed	
	09/880,755	June 15, 2001	
	First Named Inventor		
	Olivier MARCE		
	Art Unit	Examiner	
	2617	Bryan J. FOX	
<p style="text-align: center;">WASHINGTON OFFICE 23373 CUSTOMER NUMBER</p>			
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal</p> <p>The review is requested for the reasons(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p><input checked="" type="checkbox"/> I am an attorney or agent of record.</p> <p>Registration number <u>28,703</u></p> <p style="text-align: right;"><u>/DJCushing/</u> Signature</p> <p style="text-align: right;"><u>David J. Cushing</u> Typed or printed name</p> <p style="text-align: right;"><u>(202) 293-7060</u> Telephone number</p> <p style="text-align: right;"><u>May 2, 2007</u> Date</p>			

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Docket No: Q64933

Olivier MARCE, et al.

Appln. No.: 09/880,755

Group Art Unit: 2617

Confirmation No.: 5934

Examiner: Bryan J. FOX

Filed: June 15, 2001

For: A METHOD OF ACCESSING A SERVICE FROM A MOBILE TELEPHONE USING A
SHORT-CODE NUMBER

PRE-APPEAL BRIEF REQUEST FOR REVIEW

MAIL STOP AF - PATENTS

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

Pursuant to the Pre-Appeal Brief Conference Pilot Program, and further to the Examiner's Final Office Action dated November 2, 2006, Applicant files this Pre-Appeal Brief Request for Review. This Request is also accompanied by the filing of a Notice of Appeal.

The rejections as stated in the final Office action are a rejection of claims 1-3, 7-9, 13-15 and 17 as unpatentable over Gallant (USP 6,122,501) in view of Clayton et al (USP 6,725,202), a rejection of claims 4 and 10 as unpatentable over Gallant in view of Garceran et al (USP 6,522,888), and a rejection of claims 5, 6, 11 and 12 as unpatentable over Gallant in view of Owensby (US 2002/0077130 A1) and Michaels et al (USP 6,011,976). The examiner has indicated in the Advisory Action of April 3, 2007 that the reference to Clayton et al was a typographical error, and that the rejection of claims 1-3, 7-9, 13-15 and 17 should have been over Gallant in view of Owensby.

The particular problem to which the present invention is directed is discussed at lines 1-17 of page 3 of the specification. A user driving by a service location wants to talk to the service

provider but does not know the number. A “411” call to information may require that the user know the location. An improvement is to use a GPS system to track the location of the caller, but the user still needs to know the telephone number to dial. Even if the telephone number is displayed on the outside of the service establishment, it is cumbersome to dial and difficult to remember.

To address these issues, the present invention uses short-code numbers that designate individual establishments within limited geographical areas. As described, for example, at lines 29-31 of page 3, the geographical area may be the coverage area of a control station in the mobile network. This means that the mobile terminal does not have to include a GPS system to track its location. Instead, e.g., if the user sees a short code number XXX on a building, the user is necessarily in the geographical area in which dialing XXX will access that service establishment. In other words, the association between a short-code number and a service establishment is fixed simply by the user being in the geographical area, without any tracking of location necessary.

Finally, a feature of the invention defined in claim 1 is that the system sends only short code numbers corresponding to services matching user information produced by the mobile telephone.

Gallant describes a system wherein the mobile subscriber can enter a Special Dialing String (SDS) or Mobile Feature Code (MFC). As described at lines 50-65 of column 1, a problem which Gallant seeks to solve is that two subscribers in different locations may dial the same code and get different results, and the patentee views this as an undesirable inconsistency. So Gallant presents an arrangement where the translations from code to dialed number are performed centrally. As described at lines 54-63 of column 4, the mobile subscriber dials the short code and the mobile switching center then passes the received code to a centralized processing center along with other information, the centralized processing center translates it to a number to be dialed. The number to be dialed is then sent back to the mobile switching center which can then dial the number.

While Gallant does broadly teach the concept of having short dialing codes entered by a mobile subscriber and translated into dialed numbers, Gallant does not teach transmitting to the mobile terminal only those short code numbers that correspond to user information provided to the control station by the mobile terminal. The examiner apparently relies on Owensby to teach this, but such reliance is mistaken.

Owensby deals with targeted advertisement. If one of skill in the art were to consider combining the teachings of Owensby with those of Gallant, the result might be a system in which targeted advertisements would be sent to the mobile telephones. But the short codes numbers provided by the Gallant system are not advertisements but instead navigational/operational tools. A user would receive the short code numbers just as Gallant teaches, and would also receive targeted advertisements, and might then use short code numbers corresponding to one or more of the targeted advertisements. But there is nothing in the references, either alone or in combination, which would have suggested sending only selected short code numbers. The advertisers may want to send targeted advertisements because they are statistically more likely to find a receptive consumer, but this is only statistical. The phone system operator does not know what a particular user wants and could not send only selected short codes. The present invention allows the user terminal to specify the categories of short codes to be sent, so there is some specific indication from the user that the system operator can rely on in deciding what short codes to send. This is not the case in the cited art.

In the Advisory action mailed April 3, 2007, the examiner responds to this distinguishing argument by arguing that, while applicant argued the combination of Gallant and Owensby fails to disclose allowing a user to specify the categories of short codes to be sent, limitation is not recited in the claim. However, claim 1 does recite the mobile terminal providing user information to the control station and the control station thereafter sending only codes that correspond to the provided user information. So the claim may not describe the *user* specifying which codes are to be sent, but it does recite the *user terminal* specifying which codes are to be sent. So the point is far from moot. Neither Gallant nor Owensby teach the sending of only

certain codes corresponding to information provided to the control station by the user terminal, as is recited in claim 1.

With respect to claim 6, the examiner points to lines 34-36 of column 6 of Michaels as teaching the transmitting of numbers corresponding to services matching a user profile, but what Michaels et al teaches is the training of a SIM card to only *receive* certain codes. There is no discussion of having only certain codes *sent*. Having the system constantly sending short codes for all possible services or points of interest results in a waste of substantial transmission capacity on information 99% of the users have no interest in, and there is a particular advantage in having the user able to set up a profile that requests dialing codes for a particular category, e.g., tourist attractions in a geographical area. This may be even more advantageous if the location information of the mobile is obtained via GPS instead of simply the cell location, because this would enable the provision of walking tour information to a tourist very effectively, e.g., as described in the last paragraph of the specification.

This type of operation is neither shown nor suggested in the art of record.

In the Advisory action mailed April 3, 2007, the examiner responds to this distinguishing argument by arguing: “The claimed language is “transmitted to said user,” and the broadest reasonable interpretation in light of the specification of this limitation would include the combination of Gallant, Owensby and Michaels with the SIM card only receiving the relevant messages.” Thus, the examiner’s rejection of claim 6 is based on the position that a reasonable interpretation of “transmit” is “receive.” This is clearly unreasonable, and no further discussion is needed to support the reversal of the examiner on this rejection.

It is also worth noting that the examiner has not even relied on Michaels in rejecting claim 1, which also recites the transmission of only short code numbers corresponding to user information provided to the control station by the mobile terminal.

The same feature of sending only short code numbers matching user information produced by the mobile telephone is recited in independent claim 7 as well, so that all of claims 1-3, 5-9, 11, 12 and 15-17 distinguish over the cited art for the same reason as discussed above.

As to the remaining claims 4 and 10, these claims both recite that each control station maintains its own local database of short code numbers and corresponding services. The result will be that a user connected to one control station will get short code numbers corresponding to services local to that control station, and the same or a different user connected to a different control station will get short code numbers corresponding to services local to the second control station, so that the same short codes may designate different services depending on which control station is accessed. To the contrary, lines 16-22 of column 5 describe that two different subscribers dialing the same code from two different geographical locations will both get the same translation into the same number to be dialed. Thus, the subject matter of claims 4 and 10 is not taught, nor is it taught in the secondary art..

For the above reasons, reversal of all rejections is believed in order.

Respectfully submitted,

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WASHINGTON OFFICE

23373

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